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Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 CIAE-00 COME-00 INR-07 LAB-04

NSAE-00 SP-02 STR-04 TRSE-00 CIEP-01 FRB-03 OMB-01

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R 281005Z SEP 76
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 839
USDA WASHDC

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USDA FAS STEPHENS/CEP AND DAVIS, COT DIV, FMD

STATE FOR ANGEVINE, F&TD
E.O. 11652: DECON ON RECEIPT
TAGS: EAGR, RP
SUBJECT: COTTON CONTRACT PROBLEM

REF: STATE 225384

1. IN REPLY TO AGATT LETTER OF SEPTEMBER 14 TO CHM OCAMPO TRANSMITTING CIEC PROPOSAL CONTAINED REFTEL, YUPANGCO SENT FOLLOWING LETTER TO DBP WITH COPIES TO CIEC MANILA AGENT AND AGATTACHE. QUOTE THIS IS IN CONNECTION WITH THE LETTER DATED SEPTEMBER 14, 1976 FROM THE AGRICULTURAL ATTACHE, U.S. DEPT. OF AGRICULTURAL, MANILA REGARDING OUR PAST DUE COTTON CONTRACTS WITH COTTON IMPORT & EXPORT COMPANY.

IN ACCORDANCE WITH THE SENTIMENTS CONVEYED VERBALLY TO YOUR GOODSELF BY OUR MR. JESUS TYPOCO THIS MORNING, WE ARE AGREEABLE TO PUT INTO ACCEPTABLE LEGAL FORMS OUR PROPOSSALS OF AUGUST 20, 1976. HOWEVER, WE CANNOT AGREE TO THE MODIFICATION WITH REGARDS TO THE COLLECTION BY CIEC OF ONE HALF (1/2) CENTS PER LB. PER MONTH CARRYING CHARGES ON THE COTTON TO BE SHIPPED AS WE HAVE ALREADY SACRIFICED A GREAT DEAL OF LOSSES AND
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DAMAGES FROM THESE CONTRACTS.

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MOREOVER, THE DELAY IN THE OPENING OF THE L/C FOR THE BALANCE OF OUR CONTRACT DID NOT ORIGINATE FROM OUR END AS YOU VERY WELL KNOW THAT THIS CASE AROSE FROM CIEC'S SHIPMENT OF COTTON BELOW SPECIFIED QUALITIES. FURTHERMORE, THE NOTICE OF CIEC TO CANCEL OUR CONTRACTS AT THE VERY LAST MOMENT HAD DENIED US THE OP-PORTUNITY TO ORDER FOR REASONABLY LOW-PRICED COTTON SINCE THIER DECISION TO CANCEL WAS CABLED ONLY LAST JUNE 7TH WHEN THE PRICE OF COTTON HAD ALREADY GONE UP.

NEEDLESS TO SAY THAT WE HAVE ALSO INCURRED LOSSES FROM INTEREST AND BANK CHARGES FROM FEBRUARY 27, 1976 TO THE PRESENT ON THE AMOUNT WE HAVE ADVANCED FOR THE OPENING OF L/C NO. 4327 AS WELL AS COURT AND LITIGATION EXPENSES INCIDENT TO THE CASE WE FILED AGAINST CIEC. ON TOP OF THESE, WE CANNOT OVERLOOK OUR LOSS FROM LOW PRODUCTION DUE TO THE SHORTAGE OF RAW COTTON FOR BLENDING AS WE HAVE NOT BEEN ABLE TO IMPORT COTTON NOR CONTRACT FOR NEW ORDERS DUE TO THESE PENDING CONTRACTS.

IN VIEW OF THESE CIRCUMSTANCES, WE WILL CONSIDER OUR PRO-POSALS OF AUGUST 20, 1976 AS WITHDRAWN IN THE EVENT CIEC CANNOT FOREGO THE COLLECTION OF CARRYING CHARGES WHICH ITEM WAS ACTUALLY INTRODUCED ONLY DURING THE FINAL STAGE OF THIS NEGO-TIATION. END QUOTE.

2. COMMENTS. WHILE TENOR OF YUPANGCO'S RESPONSE WAS EXPECTED, IT DID NOT ADDRESS SUBJECT OF MUTUAL CANCELLATION OF CONTRACTS AS PROPOSED PARA 6 REFTEL. IT APPEARS DOUBTFUL THAT YUPANGCO WILL ACCEPT SUCH MUTUAL CANCELLATION AND SETTING ASIDE OF COURT JUDGMENT. DBP IS SENDING US LETTER WHICH WE WILL REPEAT WHEN RECEIVED.

3. DECONTROL ON RECEIPT.
SULLIVAN

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